

before the jury without judicial scrutiny is unfounded. In Jackson v. Denno, 378 U.S. 368, 395-96 (1964), the Supreme Court held, "It is both practical and desirable that in cases to be tried hereafter a proper determination of voluntariness be made prior to the admission of the confession to the jury which is adjudicating guilt or innocence." The First Circuit noted, "In Jackson, the Court held that a determination of voluntariness must be made by the trial judge out of the presence of the jury before the content of the accused's confession may be revealed to the jury. In this way, an involuntary confession would be recognized prior to reaching the jury, thereby preserving the defendant's right to a fair trial." United States v. Santiago Soto, 871 F.2d 200,201 (1st Cir.1989).

Although the defendant's motion to suppress is improper and should not be ruled on by the Court, the United States respectfully requests that this Honorable Court make findings as to the voluntariness of the defendant's statements. Although the Court could fulfill its obligations under Denno by waiting until the government offered trial evidence as to the circumstances surrounding the taking of the defendant's statements, such a course is inadvisable. A pretrial ruling on voluntariness enables the parties to more fully prepare for trial and avoid making reference to inadmissible evidence in opening statements.

Conclusion

For the reasons stated above, the United States believes it is appropriate for the Court to take no action of the defendant's motion to suppress. The United States respectfully asks the Court for a pretrial ruling on the voluntariness of the defendant's statements. Such a ruling is consistent with the obligation, as set out in Jackson v. Denno, that Trial Courts make a determination of voluntariness before a jury is permitted to receive evidence of statements made by a defendant.

Respectfully submitted,

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